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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,618	02/02/2004	Ted Blocker	BRH 302A	2306
23581	7590	06/18/2004	EXAMINER	
KOLISCH HARTWELL, P.C. 520 S.W. YAMHILL STREET SUITE 200 PORTLAND, OR 97204			ALIMENTI, SUSAN C	
			ART UNIT	PAPER NUMBER
			3644	

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/770,618	BLOCKER, TED <i>OB</i>
Examiner	Art Unit	
Susan C. Alimenti	3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 February 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-14 is/are rejected.
- 7) Claim(s) 14 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/10/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____.                                   |

**DETAILED ACTION**

***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species of the claimed invention: Species 1 as viewed in Figure 1-5 and Species 2 as viewed in Figures 6-9.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, some claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

2. During a telephone conversation with Matt Hall on 7 June 2004 a provisional election was made without traverse to prosecute the invention of Species 1, claims 1-14. Affirmation of this election must be made by applicant in reply to this Office action. No claims are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,684,613. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the claimed subject matter in the present case is <sup>claimed</sup> ~~disclosed~~ in the above named patent.

***Claim Objections***

5. Claim 14 is objected to because it claims dependency upon claim 15, however there is no claim 15 of record in the present case. Appropriate correction is required.

For purposes of examination, claim 14 will be treated as being dependent on claim 13.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3644

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 1-2, 4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Mickelson (US 6,115,889).

Mickelson discloses a method for securing an animal 16 to a fixed object 12 with a securing device 10, wherein a lead line 14 is inserted through frame 24, 18 and extending a segment of line 14 around pivotally coupled retaining member 32. A frictional engagement is attained between retaining member 32 and line 14, and a panicked horse is considered to be capable of pulling *a portion* of the line through this engagement, since the force that a panicked horse might inflict on the device is extremely variable.

Regarding claim 2, the portion of line 14 as viewed in Figure 2, is considered to be loop-like.

8. Claims 1-4, 6-7, and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Gray (US 557,800).

Gray discloses a method for securing an animal to a fixed object with a securing device A, B, C wherein a lead line 2 (See Examiner's reference characters in Figure 2) is inserted through frame B and extending a segment of the line around pivotally coupled retaining member C. A frictional engagement is attained between retaining member C and line 2, and a panicked horse is considered to be capable of pulling *a portion* of the line through this engagement, since the force that a panicked horse might inflict on the device is extremely variable.

Regarding claims 3 and 11, when line 2 is pulled downward and around retaining member C, as seen in Figure 2, a free end 1 is pulled into contact with the frame B.

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9. Claims 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomas (US 273,191).

Thomas discloses a securing device configured to be coupled to a fixed object via mount B comprising a curvilinear frame A having opposing side members with a pivotally coupled retaining member D disposed between said side members. A lead line E is threaded between the side members and around the retaining member D, providing a frictional engagement or retention. The surfaces of the frame and retaining member are substantially free of surface obstructions such that the lead line may smoothly move, when tension is alleviated, in a direction transverse the retaining member D.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan C. Alimenti whose telephone number is 703-306-0360. The examiner can normally be reached on Monday-Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone can be reached on 703-306-4198. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SCA

MICHAEL J. GAGNE  
SUPERVISORY PATENT EXAMINER